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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,442	12/29/2003	Bennett Cookson JR.	019404-001400US	2385
20350	7590	12/27/2007	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP			CABUCOS, MARIE G	
TWO EMBARCADERO CENTER			ART UNIT	PAPER NUMBER
EIGHTH FLOOR			2163	
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			12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/748,442	COOKSON ET AL.
	Examiner Marie Antoinette Cabucos	Art Unit 2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12/29/2007 & amendment filed on 10/19/07.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Tebbs et al (US Publication no. 2005/0114364).

Regarding claims 1 and 11, Tebbs discloses a system for creating a family tree, comprising the method of receiving a request from a user to return a file comprising the family tree (paragraph 0066-0067); use a plurality of primary source records to construct the family tree based on the request, wherein the records indicate multiple alternatives for at least one person of the family tree, and wherein the records comprise correlated records having been subjected to one of an individual correlation process and a relationship correlation process to thereby determine a likelihood that two or more of the records represent the at least one person (paragraphs 0025-0031, 0039-0042, 0056); send a file comprising the family tree to the user, wherein the file comprises the alternatives (figure 4; paragraph 0054).

3. Regarding claims 2 and 12, Tebbs discloses a system for creating a family tree, wherein an alternative results from a difference relating to a selection from the group

consisting of spelling, place, date, event, relationship, ancestor, spouse, and children (paragraph 0030 and 0070, claim 2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-10 and 13-19 are rejected under 35 U.S.C. 103(a) as being anticipated by **Tebbs in view of Alan Eaton (US Publication no. 2004/0083226)**.

Tebbs discloses all the claimed elements as explained above except for the user being able to select from among the alternatives. However, Eaton discloses such a user selecting option for easy transmission of genealogical data (abstract). It would have been obvious by one having ordinary skill in the art, at the time of the invention, to combine the systems and methods of Eaton with the linking and matching method of Tebbs to improve the quality of the genealogical data (paragraph 0006-0007).

Regarding claims 3-6 and 13-16, Eaton discloses a system for creating a family tree, wherein the processor is further programmed to provide an opportunity for the user to select among the alternatives (paragraphs 0036-0038, 0049-0050); wherein the processor is further programmed to receive a selection from among the alternatives from the user, store the selection, use the selection to revise the family tree; and send a file comprising the revised family tree to the user; wherein the processor is further

programmed to use the selection to provide an alternative to another user; and wherein the processor is further programmed to thereafter receive a non-contemporaneous request from the user to view the family tree; use the stored selection to construct the family tree; and send a file comprising the family tree to the user, wherein the family tree comprises the revised family tree (paragraphs 0041-0043, 0049-0051).

6. Regarding claims 7-9 and 17-19, Eaton discloses a system for creating a family tree, wherein the processor is further programmed to receive additional genealogy data that creates new alternatives in the family tree; and notify the user of the new alternatives; wherein in being programmed to notify the user of the new alternatives, the processor is further programmed to send the user an email; and wherein in being programmed to notify the user of the new alternatives the processor is further programmed to send the user a file comprising the family tree, wherein the file includes a new alternatives symbol (paragraphs 0036, 0041, 0053-0054).

### ***Response to Arguments***

Applicant's arguments filed 10/19/2007 have been fully considered but they are not persuasive. Applicant argues that Tebbs does not teach "using a plurality of primary source records to construct the family tree based on the request, wherein the records indicate multiple alternatives for at least one person of the family tree, and wherein the records comprise correlated records having been subjected to one of an individual correlation process and a relationship correlation process to thereby determine a likelihood that two or more of the records represent the at least one person." Examiner

respectfully disagrees for such a limitation is disclosed in paragraphs 0025-0031, 0039-0042, 0054 and 0056 and figure 4.

***Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art of record to Jenkins et al (US Patent no. 6,658,412) discloses a compute-based method and system for linking records in data files.

Prior art of record to Kent W. Huff (US Patent no. 6,760,731) discloses a genealogy registry system.

Prior art of record to Notargiacomo et al (US Publication no. 2003/0014422) discloses a method and system for building a family tree.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie Antoinette Cabucos whose telephone number is 571-272-8582. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don K. Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marie Antoinette Cabucos  
Examiner  
Art Unit 2163



WILSON LEE  
PRIMARY EXAMINER